REMARKS

Claims 34 to 37 have been amended. Claims 4 to 33 have been canceled. Claims 1 to 3; 5; 6; 11; 21; and 39 to 44 have been previously canceled.

Claims 34 to 37 remain in the application. Of these, claim 34 is the sole independent method claim.

Claims 38 stands withdrawn, pending reinstatement upon allowance of a generic claim, which applicant believes claim 34 is. Withdrawn claim 38 has been amended to reflect the amended terminology of claim 34.

Claims 34 to 37 stand rejected under 35 U.S.C. § 112. The Examiner does not believe the term "elastic wire-form body" does not have sufficient support in the specification. It should be noted that original claim 11 defined a "wire-form structure," and the elected species shown in Figs. 10 to 12 is a wire-form structure. However, in order to advance prosecution, applicant has, in amended claim 34, defined an "elastic body." Support for the term "elastic" is found, e.g., on Specification Page 20, line 22.

Claims 34 to 37 stand rejected under 35 USC § 102(e) based upon Carpentier US 6,338,740.

The Examiner states that the amendments in Amendment A "merely add functional language." Applicant notes that sole remaining independent claim 34 is a method claim, in which the recitation of "functional" language is proper. Claim 34, as amended, positively recites, as part of the method, "displacing and stretching tissue along the major axis of the native mitral heart valve annulus by placing the struts into contact with tissue at or near the native mitral valve leaflet commisures to place the elastic body in extension within the left atrium between the native mitral valve leaflet commissures in the elastically compressed condition at or above the native mitral heart valve annulus without removal of any native mitral valve leaflet, thereby reshaping the native mitral heart valve annulus to affect coaptation of all the native mitral valve leaflets." The "displacing and stretching tissue" element of the method claim integrates and incorporates the structural features of the elastic body defined in the preceding "providing" element (ii) of the claim, which provides antecedent basis for the "displacing and stretching tissue" element; namely, "providing an implant comprising an elastic body sized and configured to extend between the native mitral valve leaflet commissures at or above the native mitral heart valve annulus within the left atrium, the elastic body having a spring constant capable of being elastically compressed out of a normal unloaded condition into an elastically loaded compressed condition, and spaced-apart struts appended to the elastic body to contact tissue at or near the native mitral valve leaflet commissures. Applicant believes the amendment to claim 34 addresses and overcomes the "functional language" concerns of the Examiner.

The Examiner correctly notes that, in Carpentier, the aortic valve implant is located in a downstream blood flow direction from the aortic valve. Claim 34 has been clarified to define an implant that is positioned within a left atrium in association with a mitral valve annulus, which is in an upstream blood flow direction to blood flow in the heart moving from the left atrium into the left ventricle.

Furthermore, claim 34, as amended, includes the element of displacing and stretching tissue along the major axis of the native mitral heart valve annulus by placing the struts into contact with tissue at or near the native mitral valve leaflet commisures to place the elastic body in extension within the left atrium between the native mitral valve leaflet commissures in the elastically compressed condition at or above the native mitral heart valve annulus without removal of any native mitral valve leaflet, thereby reshaping the native mitral heart valve annulus to affect coaptation of all the native mitral valve leaflets. Carpentier teaches the removal at least one or more of the native valve leaflets (see, e.g., column 6, lines 29 to 33 and col. 16, lines 45 to 49). Nowhere does Carpentier teach or suggest placing an implant without removing any native mitral valve leaflet to affect coaptation of all native mitral valve leaflets. Carpentier's prosthesis serves to support artificial leaflets within an annulus. It does not displace and stretch tissue to reshape the heart valve annulus to affect coaptation of all native mitral valve leaflets, without removal of any native mitral valve leaflet.

Claims 34; 35; 36; and 37 are believed to be condition for allowance. Applicant requests the opportunity to reinstate dependent withdrawn claim 38.

Respectfully Submitted,

By______________________________
Daniel D. Ryan
Registration No. 29,243

RYAN KROMHOLZ & MANION, S.C.
Post Office Box 26618
Milwaukee, Wisconsin 53226
(262) 783 - 1300
Customer No.: 26308